

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

IN RE MENTOR CORP. OBTAPE	*	MDL Docket No. 2004
		4:08-MD-2004 (CDL)
TRANSOBTURATOR SLING PRODUCTS	*	
		Case Nos.
LIABILITY LITIGATION	*	4:13-cv-00339 (Larranaga)

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O R D E R

The Court previously granted Defendant Mentor Worldwide LLC's motion for partial summary judgment as to Plaintiff Maria Larranaga's claims for intentional misrepresentation, negligent misrepresentation, fraud, and fraudulent concealment. Order Granting Mot. for Partial Summ. J. 15-17, ECF No. 34 in 4:13-cv-339. The Court based its ruling on the fact that Larranaga "did not point the Court to any evidence that [her physician] relied on a misrepresentation from Mentor in selecting ObTape or that [her physician] would not have recommended ObTape had [her physician] known its true risks." *Id.* at 15. Although Larranaga argued that portions of her physician's deposition testimony supported her contention that her physician would not have used ObTape if he had known of its true risks, she did not submit those portions of the deposition to the Court. The Court thus could not find that a genuine fact dispute existed on this issue. *Id.* at 4 n.1.

Larranaga has now submitted the portions of Dr. Vouis's deposition that she previously neglected to submit, and she seeks reconsideration of the Court's grant of summary judgment on her

claims for intentional misrepresentation, negligent misrepresentation, fraud, and fraudulent concealment.

Larranaga asserts that Mentor misrepresented to Dr. Vouis (or concealed from him) an accurate complication rate for ObTape, the severity of known ObTape complications, and true information about ObTape's physical characteristics. *E.g.*, Vouis Dep. 120:11-17, ECF No. 36-3. She also pointed to evidence that if Dr. Vouis had known the true risks of ObTape, he would not have implanted it in Larranaga. *Id.* at 108:7-14, 121:11-21. Based on this evidence and for the reasons set forth in the Court's prior Order denying summary judgment as to the misrepresentation and fraud claims of Plaintiffs Kaiser, Burt, and Alexander, see Order re Mot. for Partial Summ. J. 14-17, ECF No. 34 in 4:13-cv-339, Larranaga's motion for reconsideration (ECF No. 36) is granted. She may pursue her claims for intentional misrepresentation, negligent misrepresentation, fraud, and fraudulent concealment. Those claims, along with her strict liability and negligence claims, remain pending for trial.

IT IS SO ORDERED, this 30th day of November, 2015.

S/Clay D. Land

CLAY D. LAND

CHIEF U.S. DISTRICT COURT JUDGE  
MIDDLE DISTRICT OF GEORGIA